

Patent & Trade Mark Attorneys
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5 November 2004

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Your Ref : M80227801:TJH:ss

Examiner's first report on patent application no. 97241/01
by DEPUY PRODUCTS, INC

Dear Madam/Sir,

I am replying to the request for normal examination. I have examined the application and I believe that there are lawful grounds of objection to the application. These grounds of objection are:

1. There is no Notice of Entitlement on file. You will need to file one because an application without a Notice of Entitlement cannot be accepted.
2. Each of the claims 1, 11, 18 and 25 is not clear because it attempts to define the invention by the desired result to be achieved. See the words "surface features being positioned to optimally transfer load".
3. Claims 1, 8, 11, 18 and 25 at least are not novel/inventive when compared to each of the following documents cited against corresponding foreign applications.

US 3894297

US 4865608

EP 965312

US 4034521

EP 169976

You have 21 months from the date of this report to overcome all my objection(s) otherwise your application will lapse. You will need to pay a monthly fee for any response you file after 12 months from the date of this report.

Yours faithfully,

Mr. SWAYAM CHINTAMANI
Examiner of Patents, Section B4
Telephone: (02) 6283 2202

Serial No. 10/1670,092 Docket No. DEP 452CON By: JSW
Application of: John Serbousek et al Mailed: December 22, 2004
Entitled: Prosthesis with feature aligned to Tracheal

THE FOLLOWING HAS BEEN RECEIVED IN THE U.S. PATENT OFFICE ON THE DATE STAMPED HEREON:

Oath or Declaration Drawings _____ sheets
 Assignment MPEP 609/
 Response Notice of Appeal
 Fee Transmittal Brief
 Charge to Deposit Account 10-0750 Priority Document
 Amendment Status Inquiry
 Extension of Time Sequence Listings/Diskette
 Issue Fee Transmittal Biological Deposit Declaration
 PCT Filing Other Postcard

IDS Form 1449 Submission under MPEP 609(d)
 Terminal Disclaimer Statement under 37 C.F.R. 1.97(e)

RECEIVED
DEC 28 2004

U.S. PATENT & TRADEMARK OFFICE

Docket No. DEP 652CON

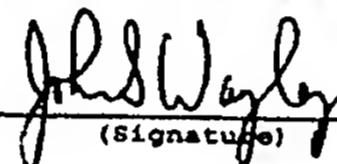
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Serbousek, John, et al
Serial No. : 10/670,092 Art Unit: 3732
Filed : September 24, 2003 Examiner: Candice C. Melson
For : Prosthesis with Feature Aligned to Trabeculae

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450 on

December 22, 2004
(Date of Deposit)

John S. Wagley
(Name of applicant, assignee, or Registered Representative)


(Signature)

December 22, 2004
(Date of Signature)

Commissioner for Patents
Alexandria, VA 22313-1450

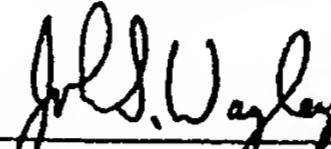
STATEMENT UNDER 37 C.F.R. §1.97(e)

In accordance with 37 C.F.R. §1.97(e), certification is hereby made that:

Each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of the Information Disclosure Statement; or

No item of information contained in the Information Disclosure Statement was cited in a communication from a foreign patent office, in a counterpart foreign application, and, to the knowledge of the undersigned after making reasonable inquiry, no item

of information contained in this Information Disclosure Statement, was known to any individual designated in §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.


John S. Wagley
Reg. No. 36,043
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DATED: December 22, 2004